

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JORGE CASANOVA

Plaintiff,

v.

CIV 08-0288 JAP/CG

ROBERT ULIBARRI, Warden

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER is before the Court on United States Magistrate Judge Carmen E. Garza's *Proposed Findings and Recommended Disposition* ("PFRD"), filed on December 12, 2013, (Doc. 143). In the PFRD, Judge Garza recommended that *Defendant's Motion to Dismiss*, (Doc. 116), be construed as a Motion for Summary Judgment, be granted and that all of Plaintiff's claims against Defendant Robert Ulibarri be dismissed with prejudice. Plaintiff has filed several documents, (Docs. 144, 145, & 148), that the Court will construe collectively as his objections to Judge Garza's recommendations.

In his objections, Plaintiff accuses Judge Garza and Senior United States District Judge Bruce Black of corruption, tampering with evidence, and obstructing justice. Plaintiff has repeatedly and vociferously voiced his displeasure with Judge Garza, and as he makes clear in his objections, he disagrees with all aspects of her recommended disposition. This Court has reviewed the record *de novo* and finds that Plaintiff has raised only one substantive objection to Judge Garza's PFRD.

Plaintiff objects to Judge Garza's finding that the grievances Plaintiff submitted do not demonstrate that Defendant Ulibarri had personal knowledge of Plaintiff's

medical needs and care while he was in segregation. (Doc. 144 at 7-9). This Court has reviewed the submitted grievances and agrees with Judge Garza that these grievances contain no indication that they were received and reviewed by Defendant Ulibarri or by any other person at the prison. These documents, in conjunction with the affidavit submitted by the Grievance Coordinator at the New Mexico Corrections Department stating that Plaintiff did not file any grievances while he was in segregation, (Doc. 51 at 33), and Defendant Ulibarri's affidavit that he was unaware of any issues regarding an inmate's medical care in the segregation unit during the relevant time period, (Doc. 136-1 at 13-14), show that Defendant Ulibarri had no knowledge of Plaintiff's medical care while he was in segregation. Although Plaintiff repeatedly alleges that Defendant Ulibarri knew of his medical needs, he has presented only conclusory, self-serving statements – not admissible evidence -- to support his arguments.

Plaintiff has not established the subjective component of his Eighth Amendment claim, *see Farmer v. Brennan*, 511 U.S. 825, 835 (1994), and therefore, cannot succeed on his claim that Defendant Ulibarri violated his Eighth Amendment rights. Plaintiff's objection is overruled.

Plaintiff's remaining objections are conclusory and fail to show how Judge Garza misapplied the law to the undisputed facts. The record demonstrates that Plaintiff has repeatedly raised the same points and has had ample opportunity to be heard, but simply has not produced evidence to support his claims against Defendant Ulibarri.

Having conducted a *de novo* review of the filings, the PFRD, and Plaintiff's objections, the Court adopts the PFRD and overrules Plaintiff's objections.

IT IS ORDERED THAT:

- 1) The Magistrate Judge's *Proposed Findings and Recommended Disposition* (Doc. 143) are **ADOPTED**;
- 2) *Defendant's Motion to Dismiss*, construed as a Motion for Summary Judgment, (Doc. 116) is **GRANTED**; and
- 3) All claims against Defendant Ulibarri will be **DISMISSED WITH PREJUDICE**.

A handwritten signature in black ink, reading "James A. Parker". The signature is written in a cursive, flowing style. The first name "James" is written in a standard cursive, while "A." is a simple capital letter followed by a period. "Parker" is written in a more stylized cursive with a large, looping 'P' and a trailing flourish.

SENIOR UNITED STATES DISTRICT JUDGE